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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,019	05/31/2001	Gerald Keith Sosalla	16214A	8208

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EXAMINER	
TRAN, LOUIS B	
ART UNIT	**PAPER NUMBER**
3721	12

DATE MAILED: 05/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K

Office Action Summary	Application No.	Applicant(s)	
	09/871,019	SOSALLA, GERALD KEITH	
	Examiner	Art Unit	
	Louis B Tran	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 February 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-9,18,19 and 21-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-9,18,19,21-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☒ The proposed drawing correction filed on *25 February 2003* is: a)☒ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *9* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1. This action is in response to applicant's amendment, Paper No. 11, received on 2/25/2003. Applicant's cancellation of claims 3, 10-17 and 20 in Paper No. 11 is acknowledged.

Double Patenting

2. Claims 1, 7, and 18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 and 11 of copending Application No. 09/ 871,020. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1 and 11 of copending application 09/ 871,020 claims a stack of fan folded material substantially similar to the instant application as well as a dispenser.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Drawings

3. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 2/25/2003 have been accepted. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1,2,4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig et al. (6,286,712) in view of Mertens (4,768,810).

Craig et al. discloses the invention substantially as claimed including a stack of fan folded material, each clip comprising a plurality of fan folded sheets, and each sheet of the clip joined to an adjacent clip by a last sheet of one clip being separably joined to a first sheet of a succeeding clip (as in claim 1), wherein a plurality of fan folded sheets comprise fold lines formed in a machine direction of the sheets (as in claim 4), wherein separably joined comprises adhesively joined (as in claim 5), wherein a liquid in is in combination with the stack of fan folded material (as in claim 6) as discussed in column 1, line 21, but does not show each sheet joined to at least one adjacent sheet by a weakened line wherein weakened line is formed in the machine direction of the sheets and the weakened line is located at an end of each sheet when such sheet joins the end of the adjacent sheet by the weakened line (as in claim 1), wherein the weakened line comprises perforations (as in claim 2), the liquid at an add-on rate of about 25 to about 600 weight percent based on dry weight of the stack of fan folded material (as in claim 6).

However, Mertens teaches the use of each sheet joined to at least one adjacent sheet by a weakened line 12, 25 as seen in Figure 1 and 2 wherein weakened line is formed in the machine direction of the sheets and the weakened line is located at an end of each sheet when such sheet joins the end of the adjacent sheet by the

weakened line (as in claim 1), wherein the weakened line 12,25 comprises perforations (as in claim 2), for the purpose of allowing individual sheets of uniform size to be torn evenly as discussed in column 2, line 42.

Therefore, it would have been obvious to one having ordinary skill in the art to provide Craig et al. with perforation in order to easily tear individual sheets evenly.

With respect to claim 6, Craig et al. discloses the claimed invention except for having the liquid at an add-on rate of about 25 to about 600 weight percent based on dry weight of the stack of fan folded material . It would have been obvious to one having ordinary skill in the art at the time the invention was made to find an optimum range for liquid application, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller, 105 USPQ 233.*

6. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig et al. (6,286,712) in view of Mertens (4,768,810).

Craig et al. discloses the invention substantially as claimed including a stack of fan folded material, each clip comprising a plurality of fan folded sheets folded along a machine direction of the sheets; and each clip joined to an adjacent clip by a last sheet of one clip being adhesively joined to a first sheet of a succeeding clip (as in claim 7), but does not show each sheet joined to at least one adjacent sheet by a weakened line formed in the machine direction of the sheets

However, Mertens teaches the use of each sheet joined to at least one adjacent sheet by a weakened line 12, 25 formed in the machine direction of the sheets wherein

the weakened line is located at an end of each sheet when such sheet joins the end of the adjacent sheet by the weakened line as seen in Figure 1 and 2 (as in claim 7), and wherein the weakened line comprises perforations (as in claim 8) for the purpose of allowing individual sheets of uniform size to be torn evenly as discussed in column 2, line 42.

Therefore, it would have been obvious to one having ordinary skill in the art to provide Craig et al. with a weakened line in order to easily tear individual sheets evenly.

Craig et al. discloses the claimed invention except for having the liquid at an add-on rate of about 25 to about 600 weight percent based on dry weight of the stack of fan folded material (as in claim 9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to find an optimum range for liquid application, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller, 105 USPQ 233.*

7. Claims 18,19,21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig et al. (6,286,712) in view of Mertens (4,768,810).

Craig et al. discloses the invention substantially as claimed including a stack of fan folded material, each clip comprising a plurality of fan folded sheets, and each clip joined to an adjacent clip by a sheet of one clip being seperably joined to a different sheet of a succeeding clip (as in claim 18), wherein the plurality of fan folded sheets comprise fold lines formed in a machine direction of the sheets (as in claim 21), wherein

separably joined comprises adhesively 17,18 joined (as in claim 22) but does not show each sheet joined to at least one adjacent sheet by weakened line.

However, Mertens teaches the use of each sheet joined to at least one adjacent sheet by weakened line 12, 25 wherein the weakened line is formed in a machine direction of the sheets and the weakened line is located at an end of each sheet when such sheet joins the end of the adjacent sheet by the weakened line as seen in Figure 1 and 2 (as in claim 18), and wherein the weakened line comprises perforations as in Figure 1 (as in claim 19), for the purpose of allowing individual sheets of uniform size to be torn evenly as discussed in column 2, line 42.

Therefore, it would have been obvious to one having ordinary skill in the art to provide Craig et al. with a weakened line in order to easily tear individual sheets evenly.

Craig et al. discloses the claimed invention except for having the liquid at an add-on rate of about 25 to about 600 weight percent based on dry weight of the stack of fan folded material (as in claim 23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to find an optimum range for liquid application, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller, 105 USPQ 233.*

Conclusion

8. Applicant's remarks have been fully considered but are deemed non-persuasive.

Applicant contends that Craig et al. lacks the weakened line required by applicant. Examiner maintains that Mertens provides the appropriate weakened line structure and proper motivation required in combination with Craig et al. to obviate the applicant's invention.

Furthermore, applicant has added new limitations to define the weakened lines; however, Mertens still contains the features of applicant's invention as claimed. It is noted that applicant has contended that the machine direction is moving in the direction left or right relative to Figure 2 in Mertens. Weakened line 25 fulfills this limitation, however, it is noted that applicant has not structurally defined the machine direction in the claims. Applicant has merely required weakened lines in a machine direction. Currently, the machine direction as claimed, in its broadest reasonable interpretation, is arbitrary. However, for consistency, the examiner has considered the machine direction as defined in applicant's remarks of paper no. 11 and Mertens still discloses a weakened line in a machine direction as defined by applicant's remarks.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a machine direction of a specific orientation) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to Applicant's piecemeal analysis of the references, it has been held that one cannot show non-obviousness by attacking references individually where, as

here, the rejections are based on combinations of references. *In re Keller*, 208 USPG 871 (CCPA 1981).

For the reasons above, the grounds of rejection are deemed proper.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611. The examiner can normally be reached on 8AM-6PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

lbt
April 21, 2003

Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700